

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES DANIEL MURPHY,

Defendant.

CR-02-51-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on June 21, 2021. (Doc. 43.) James Murphy (Murphy) filed an objection on July 6, 2021. (Doc. 44.) The Court reviews de novo findings and recommendations to which a party objects. 28 U.S.C. § 636(b)(1).

Judge Johnston conducted a revocation hearing on June 17, 2021. (Doc. 42.) The United States accused Murphy of violating his conditions of supervised release by 1) by using methamphetamine and marijuana; 2) by committing another crime;

and 3) by failing to report for substance abuse testing; and 4) by failing to report for substance abuse treatment. (Doc. 36.) At the revocation hearing, Murphy admitted to violating the terms of his supervised release 1) by using methamphetamine and marijuana; 2) by committing another crime; and 3) by failing to report for substance abuse testing; and 4) by failing to report for substance abuse treatment. (Doc. 42.) Judge Johnston found the violations Murphy admitted are serious and warrant revocation of Murphy's supervised release. Judge Johnston recommended Murphy should be incarcerated for 12 months, with 48 months of supervised release to follow. (Doc. 43.) Murphy was advised of his right to appeal and his right to allocute before the undersigned. (Doc. 42)

Murphy now opposes Judge Johnston's Findings and Recommendations, objecting to the length of custodial sentence. (Doc. 44.)

The Court has reviewed Judge Johnston's Findings and Recommendations as well as Murphy's objection. The undersigned conducted a revocation hearing on July 19, 2021. (Doc. 46.) Murphy and his attorney were allowed to allocute before the undersigned. (*Id.*) The Court has also considered the 18 U.S.C. § 3553(a) factors and agrees with Judge Johnston's Findings and Recommendations. Murphy's violations of his conditions represent a serious breach of the Court's trust. These violations proves serious. Judge Johnston has recommended that the

Court revoke Murphy's supervised release and commit him to the custody of the Bureau of Prisons for 12 months. (Doc. 43.) Judge Johnston further has recommended a term of 48 months of supervised release. Accordingly,

IT IS HEREBY ORDERED that Murphy's objection is denied. Judge Johnston's Findings and Recommendations, (Doc. 43) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant James Daniel Murphy be sentenced to the custody of the Bureau of Prisons for a term of 12 months, with 48 months of supervised release to follow. Murphy should serve his term of custody at the Federal Medical Center in Rochester, Minnesota. The sentence imposed in this case should run concurrent with the sentences imposed in Causes CR 03-27-GF-BMM and CR 02-35-GF-BMM.

DATED this 19th day of July, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court